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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/558,924 | 04/26/2000 | John Albert Kembel | 10351-0005 | 1659 |

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EXAMINER

AVELLINO, JOSEPH E

ART UNIT PAPER NUMBER

2143

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/558,924

Applicant(s)

KEMBEL ET AL.

Examiner

Joseph E. Avellino

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2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 21-40 are presented for examination with claims 21, 30, 34, and 38 independent. The Office acknowledges the cancellation of claims 1-20.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

((b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis et al. (USPN 5,796,952) (hereinafter Davis).

3. Referring to claim 21, Davis discloses a method of tracking distributed content within a computer network (e.g. abstract; Figure 1), comprising:

receiving information associated with addressed content displayed on a computing device (e.g. abstract);

recording information that includes starting times and ending times for time periods during which addressed content was displayed on said computing device (col. 12, lines 25-30); and

deriving, using said recorded information, subsets of said addressed content that was displayed on said computing device during overlapping time periods (i.e. ad banner and the web page as a whole) (col. 14, lines 22-46) (it is understood that the previous method of using the starting times and ending times via START and STOP methods of the JAVA applet is utilized in order to determine how long both the ad banner and web page have been viewed together).

4. Referring to claim 22, Davis discloses recording additional information related to user activity (i.e. "click-through rate" of ad banners) during the time period during which said addressed content was displayed on said computing device (it is inherent that the click through rate is when the advertisement is displayed, since it would be impossible to click on the advertisement if it was not displayed) (col. 13, line 63 to col. 14, line 21); and

correlating, using said recorded information, the addressed content that was displayed on said computing device with user activity on said computing device (col. 13, line 63 to col. 14, line 21).

5. Referring to claim 23, Davis discloses the received information is associated with a set of data structures (i.e. a database for storing and analyzing information and also CGI scripting and JAVA applets for tracking) for displaying addressed content, and wherein said recorded information includes starting times and ending times for time periods during which addressed content was displayed through respective data

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structures of said set of data structures on said computing device (i.e. the Java applet is used to display the requested content) (Figures 3-7).

6. Referring to claim 24, Davis discloses correlating a subset of data structures to create a pack of data structures (i.e. a category pertaining to the users interests) (col. 14, lines 47-50).
7. Referring to claim 25, Davis discloses comprising a statistical database to track individual events executed at a plurality of computing devices that display said addressed content (e.g. abstract).
8. Referring to claim 26, Davis discloses comprising a content database to characterize the addressed content displayed on said computing device (the term "characterize" can be broadly construed as "tracking and organizing the information") (e.g. abstract).
9. Referring to claim 27, Davis discloses targeting an advertisement to a single user based upon subsets of addressed content (e.g. abstract).
10. Referring to claim 28, Davis discloses determining in real-time a subset of addressed content that is displayed simultaneously (col. 14, lines 25-35).

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11. Referring to claim 29, Davis discloses determining a subset of said subsets of addressed content that is delivered to a single user (col. 14, lines 25-35).

12. Claims 30-40 are rejected for similar reasons as stated above.

Response to Amendment

13. Applicant's arguments with respect to claims 21-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Wolfe (USPN 6,341,305) discloses communicating information correlating to a network resource.

16. Middleton, III et al. (USPN 6,393,407) discloses tracking user micro-instructions with web page advertising.

17. Srinivasan et al. (USPN 6,411,992) discloses broadcasting information over a network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (703)

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305-7855 until October 27, 2004. After this date the Examiner may be reached at (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703) 308-5221 until October 21, 2004. After this date, the Examiner's Supervisor may be reached at (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEA
September 16, 2004


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100